

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

11	RICHARD FUNMAN,)	Case No. 5:14-cv-03411-PSG
12	v.)	ORDER REASSIGNING CASE TO A
13	SUSAN WARD, et al.,)	DISTRICT JUDGE WITH REPORT
14	Defendants.)	AND RECOMMENDATION THAT
15)	CASE BE REMANDED AND
16)	APPLICATION TO PROCEED IN
)	FORMA PAUPERIS BE
)	DENIED-AS-MOOT
)	(Re: Docket No. 2 and 4)

Before the court are a series of filings which appear to seek leave of this court to (1) remove a state court case and (2) to proceed in forma pauperis. Because the record before the court does not provide the undersigned with an adequate basis to identify the claims and parties in the case,¹ the court cannot say that removal was proper nor can this court assert jurisdiction. Because this court has an independent, ongoing obligation to establish jurisdiction that cannot be waived, remand is warranted.² Absent the consent of the parties,³ the court ORDERS the case reassigned to a district judge with the report and recommendation that the case be remanded.⁴

¹ See Docket Nos. 1,1-1, 2, 4, 4-1 and 5.

² See *LFG Nat'l Capital, LLC v. Alioto*, Case No. 3:13-cv-01930-SI, 2013 WL 3286224, at *2 n.1 (N.D. Cal. June 27, 2013).

1 IT IS SO ORDERED.
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Dated: August 7, 2014

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4 PAUL S. GREWAL
United States Magistrate Judge

United States District Court
For the Northern District of California

1 Subject matter jurisdiction, however, cannot be waived, and federal courts have a
2 continuing, independent obligation to determine whether subject matter jurisdiction exists.
3 See *Arbaugh v. Y & H Corp.*, 546 U.S. 500, 514 (2006) (citing *Ruhrgas AG v. Marathon*
4 *Oil Co.*, 526 U.S. 574, 583 (1999)) ("All courts have an 'independent obligation to
5 determine whether subject-matter jurisdiction exists, even in the absence of a challenge
6 from any party.'"); see also *Leeson v. Transamerica Disability Income Plan*, 671 F.3d 969,
7 975 n.12 (9th Cir. 2012).

8 ³ This court is ordering reassignment to a district judge because, absent consent of all parties, the
9 undersigned magistrate does not have the authority to make case-dispositive rulings. See *Tripathi v.*
10 *Rison*, 847 F.2d 548, 548-49 (9th Cir. 1988).

11 ⁴ The undersigned also recommends that the district judge deny Plaintiff's application to proceed in
12 forma pauperis as-moot.